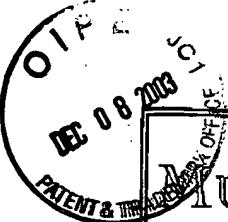


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INTELLECTUAL PROPERTY LAW -  
PATENT, TRADEMARK, COPYRIGHT,  
UNFAIR COMPETITION, LICENSING,  
COMPUTER LAW, AND RELATED MATTERS

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GERALD L. SMITH  
J.K. MUELLER, JR.  
DIANE E. BURKE

DATE: August 20, 2004  
DEST. FAX NO. 703-746-6598  
NUMBER OF PAGES: 3

TO: Kathy Nelson  
FROM: Gerald L. Smith  
RE: Serial No. 10/730,633 Our File: NET 2-100  
REMARKS:

Per your request, attached is a copy of the declaration and power of attorney.

THIS COMMUNICATION, OR PORTIONS THEREOF, MAY BE PRIVILEGED OR CONFIDENTIAL  
AND IT IS INTENDED ONLY FOR THE USE OF THE ADDRESSEE.  
IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, RECEIVE ILLEGIBLE COPIES, OR  
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TFI PHONE OR RETURN FAX

Attorney Docket NET 2-100



**DECLARATION AND POWER OF ATTORNEY PATENT APPLICATION  
CO-PENDING APPLICATION CONTAINING ADDITIONAL SUBJECT MATTER**

As a below-named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name:

I believe I am the original, first and sole (if only one name is listed below) or an original, first and joint (if plural names are listed below) inventor of the subject matter which is claimed and for which a patent application is sought on the invention entitled:

**Electrosurgical Apparatus And System With Improved Tissue**

the specification of which

[X] is attached hereto.

[ ] was filed on, as application Serial No. \_\_\_\_\_, and was amended on \_\_\_\_\_.

This application in part discloses and claims subject matter disclosed in my earlier filed pending application \_\_\_\_\_, filed \_\_\_\_\_, and was amended on \_\_\_\_\_.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a).

I hereby claim benefit under Title 35, United States Code, §120 of any United States application(s) listed below, and insofar as the subject matter of each of the claims of the application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national PCT international filing date of this application:

App'n Serial No.	Filing Date	Status (patented, pending, abandoned)
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App'n Serial No.	Filing Date	Status (patented, pending, abandoned)
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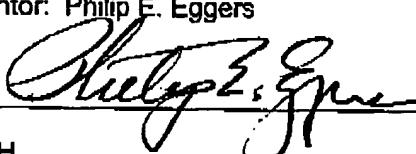
I hereby appoint Gerald L. Smith, Reg. No. 22,009, Jerry K. Mueller, Jr., Reg. No. 27,576, and Diane E. Burke, Reg. No. 45,725 jointly and each of them severally, my attorneys and attorney, with full power of substitution, delegation and revocation, to prosecute this application, to make alterations and amendments therein, to receive the patent and to transact all business in the Patent and Trademark Office connected therewith. I hereby direct that all correspondence be addressed to: Mueller and Smith, LPA, 7700 Rivers Edge Drive, Columbus, Ohio 43235, and all telephone calls be directed to Gerald L. Smith., at telephone number (614) 436-0600.

Attorney Docket NET 2-100

O I P  
DEC 08 2003  
PATENT & TRADEMARKS  
  
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor: Philip E. Eggers

Inventor's signature

 Date December 5, 2003

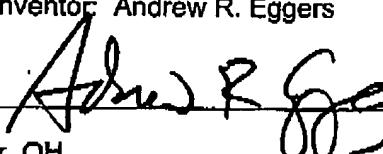
Residence: Dublin, OH

Citizenship: US

Post Office Address: 5366 Reserve Drive, Dublin, OH 43017

Full name of second inventor: Andrew R. Eggers

Inventor's signature

 Date 12-4-03

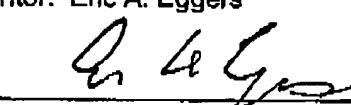
Residence: Ostrander, OH

Citizenship: US

Post Office Address: 3868 Fry Road, Ostrander, OH 43061

Full name of third inventor: Eric A. Eggers

Inventor's signature

 Date 12-4-03

Residence: Portland, OR

Citizenship: US

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